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FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.

DEC 14 2000

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
1998 Biennial Regulatory Review --	)	WT Docket No. 98-182
47 C.F.R. Part 90 - Private Land Mobile	)	RM-9222
Radio Services	)	
	)	
Replacement of Part 90 by Part 88 to Revise	)	PR Docket No. <u>92-235</u>
the Private Land Mobile Radio Services and	)	
Modify the Policies Governing Them	)	
	)	
Examination of Exclusivity and Frequency	)	
Assignments Policies of the Private	)	
Land Mobile Services	)	

REPLY COMMENTS OF THE  
AMERICAN AUTOMOBILE ASSOCIATION

The American Automobile Association ("AAA"), 1/ by its attorneys, hereby submits its reply comments in response to the Commission's *Further Notice of Proposed Rulemaking* ("Notice") in the above-captioned docket. 2/ Specifically, AAA responds to comments filed regarding its proposal that the Commission: (1) eliminate the power restriction on eight of the 30 frequencies now designated for

1/ AAA is the nation's leading provider of emergency road services and is the FCC-designated exclusive frequency coordinator of the Emergency Road Service channels.

2/ *1998 Biennial Regulatory Review -- 47 C.F.R. Part 90 - Private Land Mobile Radio Services*, Report & Order and Further Notice of Proposed Rulemaking, WT Docket No. 98-182 (rel. July 12, 2000) ("Order & Further Notice"). The Commission had previously released a Notice of Proposed Rulemaking in the instant proceeding. See *1998 Biennial Regulatory Review -- 47 C.F.R. Part 90 - Private Land Mobile Radio Services*, Notice of Proposed Rulemaking, WT Docket No. 98-182 (rel. Oct. 20, 1998) ("Notice").

shore-to-vessel/dockside communications ("Dockside Channels"), and (2) designate AAA as the sole coordinator of those eight frequencies. 3/

## I. INTRODUCTION

All parties commenting on AAA's Supplemental Comments supported the first part of AAA's proposal and agreed that the Commission should eliminate the power restriction on the eight Dockside Channels. 4/ With respect to the second part of AAA's proposal, only one commenter – MRFAC – directly opposed the designation of AAA as the sole coordinator for those channels. 5/ MRFAC, however, offered no persuasive reason to reject the designation of AAA as sole coordinator. As AAA demonstrated in its original filing and reiterates below, designation of AAA as the sole coordinator of the eight Dockside Channels is the best solution to the coordination issues associated with those frequencies.

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3/ See Aug. 26, 1999 Supplemental Comments of the American Automobile Association *in re 1998 Biennial Regulatory Review -- 47 C.F.R. Part 90 - Private Land Mobile Radio Services*, Notice of Proposed Rulemaking, WT Docket No. 98-182 (rel. Oct. 20, 1998) ("Supplemental Comments"). In conjunction with its July 12, 2000 Order & Further Notice, the Commission solicited comment on AAA's Supplemental Comments filed in response to the Commission's October 20, 1998 Notice.

4/ Parties filing comments on the Further Notice were American Association of State Highway and Transportation Officials ("AASHTO"); Association of Public-Safety Communications Officials ("APCO"); Harlan L. Cooley; Thomas P. Currie; Globe Wireless; MRFAC, Inc. ("MRFAC"); and Small Business in Telecommunications. Of these, only MRFAC and Globe Wireless commented directly on AAA's Supplemental Comments.

5/ MRFAC Comments at 3-5.

## **II. COMMENTING PARTIES AGREE THAT ELIMINATION OF THE POWER RESTRICTION ON THE EIGHT DOCKSIDE CHANNELS WOULD BENEFIT THE PUBLIC**

As AAA indicated in its Supplemental Comments in this proceeding, eliminating the 2-watt power restriction on the eight Dockside Channels, and thereby enabling the use of high-power mobile relay, or "repeater," stations on the corresponding Emergency Road Service channels, will provide substantial public benefit. This action will enable Emergency Road Service channel licensees, and all potential users in the Business/Industrial pool, to significantly expand their respective signal coverage areas by enabling licensees to overcome obstacles such as hills, mountains and valleys. The result is a far more efficient use of existing private radio spectrum. Specifically, AAA would use these frequencies to expand digital voice and data communications in many American cities, including Las Vegas, Phoenix, Denver, Nashville, Salt Lake City, Birmingham, Orlando, Charlotte, Raleigh-Durham, Richmond, Columbus, Burlington, Manchester, Utica, Hartford, Evansville, Oklahoma City, Kansas City, Omaha and Des Moines. 6/

Both Globe Wireless and MRFAC supported AAA's proposal to eliminate the power restriction on the eight Dockside Channels. Globe Wireless explicitly stated that it "supports the expanded use of the eight frequencies involved

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6/ One AAA Club Member, the Automobile Club of Hartford, sees the effort to remove the two-watt power restriction and pair the frequencies with the Dockside Channels as strategically important to its ability to expand its radio frequency system coverage. In particular, the Hartford Club looks forward to an overall improvement of its safety services by increasing the effectiveness of its own calls as well as the police and other emergency calls it receives on a daily basis.

in the AAA proposal." 7/ MRFAC agreed with AAA that the proposed change will help alleviate the severe shortage of private radio spectrum. MRFAC also stated that "allowing high-power use of these frequencies will make for much more efficient use of the channels." 8/ Significantly, no one has cited any harm that could result from increasing the power level of these channels. In sum, the parties commenting on AAA's proposal agreed that the Commission should eliminate the power restriction on the eight Dockside Channels.

### **III. THE COMMISSION SHOULD DESIGNATE AAA AS THE COORDINATOR OF THE EIGHT DOCKSIDE CHANNELS**

The Commission also should designate AAA as the sole coordinator of the eight Dockside Channels. Globe Wireless tacitly supports this proposal. MRFAC opposes AAA's proposal, yet offers no persuasive reason to do otherwise. Furthermore, it is significant to note that neither the Personal Communications Industry Association ("PCIA") nor the Industrial Telecommunications Association ("ITA"), both of whom are major and significant frequency coordinators for the private radio industry, made any objection to AAA's request.

MRFAC opposed designation of AAA as the sole coordinator of these channels on two grounds. 9/ First, MRFAC argued that such designation would run counter to the refarming principle of promoting competition among

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7/ Globe Wireless Comments at 2.

8/ MRFAC Comments at 3.

9/ MRFAC Comments at 3-5.

Industrial/Business Pool coordinators. Second, MRFAC stated that the better solution would be to adopt an approach similar to the Land Mobile Communications Council's ("LMCC") proposed "coordination trigger" rule for shared Power, Petroleum, Railroad, and Automobile Emergency channels. However, MRFAC failed to address the substance and merits of AAA's sole coordinator proposal for these particular channels. Instead, MRFAC fell back on broad policy arguments that fail to take into account the countervailing and equally important policies that support the designation of AAA as the sole coordinator of the eight Dockside Channels. MRFAC also did not acknowledge the many practical problems that could arise if the Commission adopted a "coordination trigger" rule in the Dockside Channels context.

**A. FCC Policy Favors AAA's Designation as Sole Coordinator**

When compared with the FCC policy reasons supporting the designation of AAA as sole coordinator, MRFAC's policy arguments necessarily fail. AAA's Supplemental Comments contained detailed factual information showing that an exclusive designation would prevent interference on the corresponding Emergency Road Service frequencies and thus protect stranded motorists from delays in the rendering of assistance. AAA's Supplemental Comments also demonstrated that designation of AAA as sole coordinator would help eliminate the frequent practice by certain errant coordinators of assigning Dockside Channel frequencies without proper regard to the restrictions in the Commission's rules. 10/

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10/ AAA Supplemental Comments at Attachment B.

AAA also has demonstrated that, if designated sole coordinator, it would ensure that new assignments would not interfere with existing cargo handling users. 11/ These important policies – preventing interference on the eight Dockside Channels, protecting incumbents on those channels, and preventing interference on the corresponding Emergency Road Service frequencies – outweigh MRFAC's objections and support the designation of AAA as sole coordinator of the eight Dockside Channels.

When the Dockside Channels are paired with Emergency Road Service frequencies, public safety considerations necessarily enter the analysis. MRFAC fails to recognize this important factor, instead stating its desire that the FCC base its decision on competitive factors. 12/ When the Commission recognized AAA as the exclusive coordinator for the Emergency Road Service channels, it based its decision on the fact that AAA's safety-related communications are very serious and directly impact the overall public welfare. 13/ "The communications necessary to effect the prompt clearing of the highways must be clearly and rapidly conveyed, because delay can result in serious injury or death to motorists if the vehicles

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11/ AAA Supplemental Comments at Attachment C.

12/ MRFAC Comments at 3.

13/ *In re Matter of Replacement of Part 90 By Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignment Policies of the Private Land Mobile Services*, Second Memorandum Opinion & Order, PR Docket No. 92-235, FCC 99-68 (rel. Apr. 13, 1999) ("Second MO&O") at ¶ 16.

remain in place."<sup>14/</sup> Even Congress has explicitly recognized AAA's paramount role in this regard. <sup>15/</sup> Since the Dockside Channels will be paired with the Emergency Road Service frequencies, it is appropriate that the Commission apply the same rationale in the instant case. Exclusive coordination of the channels will enable AAA to efficiently direct the non-emergency traffic on the Dockside Channels while simultaneously fulfilling its critical public safety duties on the Emergency Road Service channels. For these reasons, AAA is best suited to handle the important responsibilities associated with designation as sole coordinator of the Dockside Channels.

If authorized for high power use, the Dockside Channels would be paired with Emergency Road Service frequencies for the first time. In light of this new circumstance, prudence dictates that the FCC grant AAA's request for exclusive coordination of the channels. MRFAC argues that the FCC should not designate AAA as the exclusive coordinator for the Dockside Channels and attempts to analogize the situation at hand with that of the frequency coordination treatment of the former Power, Petroleum and Railroad Radio Service shared channels. <sup>16/</sup> AAA strongly disagrees with this analogy. In the case cited by MRFAC, the former Power, Petroleum and Railroad Service channels had a long history of shared

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<sup>14/</sup> *Id.*

<sup>15/</sup> *Id.* "In the 1997 Budget Act, Congress created a separate category for not-for-profit organizations that offer emergency road services and exempted that category from spectrum auctions." *Id.* citing 47 USC § 309(j)(2)(A).

<sup>16/</sup> *See* MRFAC Comments at 4.

frequency coordination when the FCC ruled that those channels could only be coordinated by the UTC – The Telecommunications Association (UTC), American Petroleum Institute (API), or the American Association of Railroads (AAR). <sup>17/</sup> In the case at hand, however, there has been no similar history of any shared coordination arrangements with the Dockside Channels, neither with the Emergency Road Service channels nor with any other channels.

Finally, AAA notes its agreement with Globe Wireless that, as sole coordinator, AAA will be responsible for settling any interference problems that may arise on the eight Dockside Channels. <sup>18/</sup> In its Supplemental Comments, AAA indicated that it would use engineering contour analysis to prevent new frequency assignments from interfering with incumbent cargo handlers. AAA handily resolves interference issues in its current frequency coordination capacity. As Globe Wireless stated, taking on the role of coordinator for the eight Dockside Channels would not be a burden to AAA.

**B. MRFAC Failed to Acknowledge the Practical Problems Associated with the "Coordination Trigger" Rule for the Dockside Channels**

MRFAC also failed to acknowledge in its comments the potential problems surrounding the "coordination trigger" rule for the Dockside Channels. In practical terms, adoption of a "coordination trigger" rule would be inefficient,

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<sup>17/</sup> See Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them, Second Report & Order, PR Docket No. 92-235, 14 FCC Rcd. 14307 (1999).

<sup>18/</sup> See Global Wireless Comments at 2-3.



cumbersome, and fraught with problems for all parties involved, particularly as use of these channels increases at the higher power levels. Under such a rule, for example, a sponsoring coordinator would have to notify an incumbent licensee or the licensee's coordinator whenever an applicant's interfering contour would overlap the incumbent's service contour. The sponsoring coordinator would then have to obtain the concurrence of the incumbent, and communicate back to all parties involved. This process would take place simultaneously among multiple coordinators, multiple applicants, and multiple incumbents, creating a complex web of criss-crossing and potentially conflicting communications. Moreover, the process of notifying the incumbent licensee and/or its coordinator, clearly articulating the situation, obtaining the licensee's concurrence, and communicating back to the applicant would take valuable time and considerable effort. In reality, parties can be difficult to reach and are often non-responsive, and AAA believes that few coordinators will actually go to the trouble of making these notifications in practice, especially given the absence of any compliance or enforcement mechanisms.

Couple this already tenuous situation with an emergency and the problems become even more dramatic. The administrative difficulties, confusion, likelihood of miscommunication or failure to participate in such a system would create an unacceptable risk of interference for all parties involved, especially so when dealing with roadside emergencies. For these reasons, the "coordination trigger" rule suggested by MRFAC would not serve the interests of incumbent licensees, applicants, or the general public. The public, users of the eight Dockside

Channels, and users of the Emergency Road Service Channels are all entitled to an efficient, interference-free system. As sole coordinator for those channels, AAA would achieve such a system.

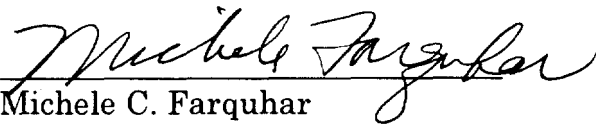
The Commission should thus grant AAA's proposal and make AAA the sole coordinator of the eight Dockside Channels. In the alternative, the Commission should require, at a minimum, that all other frequency coordinators obtain AAA's written concurrence at least one week prior to allowing any sharing of the Dockside Channel frequencies.

#### IV. CONCLUSION

For the reasons set forth above, AAA urges the Commission to eliminate the power restriction on the eight Dockside Channels and designate AAA as the sole coordinator of those channels.

Respectfully submitted,

**AMERICAN AUTOMOBILE  
ASSOCIATION**



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December 14, 2000

## **CERTIFICATE OF SERVICE**

I, Patricia A. Green, do hereby certify that on the 14th day of December, 2000, I forwarded to the parties listed below a copy of the foregoing Reply Comments of the American Automobile Association, by first-class mail, postage prepaid, unless otherwise indicated:

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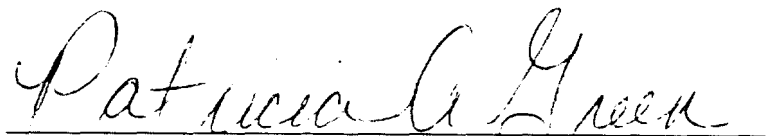
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